



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Bruno L. Pigott
Commissioner

MAY 12 2017

VIA CERTIFIED MAIL: 7004 1160 0004 6517 7920

7004 1160 0004 6517 7937

Marc Walraven, Owner
Eagle Railcar Services
9701 East Interstate 20
Eastland, TX 76448

Corporation Service Company, Registered Agent
135 North Pennsylvania Street, Suite 1610
Indianapolis, IN 46204

Re: Notice of Violation and Proposed Agreed Order
Eagle Railcar Services - Washington, Indiana, LLC
Plant ID No. 027-00006
Washington, Daviess County
Case No. 2016-23675-A

Qualified offer of settlement: inadmissible pursuant to Rule 408 of the Ind. Rules of Evidence. IDEM asserts that any offer to compromise a claim or any acceptance of such offer does not bind or obligate the parties of this enforcement action in the absence of a final order of the agency.

Dear Mr. Walraven:

This is to advise that the Indiana Department of Environmental Management (IDEM) conducted an investigation of Washamerica, Inc. dba BW Washington Car Shop located at 1723 West Walnut Street in Washington, Daviess County, Indiana. As a result of information obtained during that investigation and review of subsequent correspondence and reports, IDEM has made a preliminary determination that violations of environmental management laws and rules exist. Pursuant to IC 13-30-3-3, enclosed please find a Notice of Violation that sets forth the alleged violations, and a proposed Agreed Order which constitutes a qualified offer of settlement.

You may request a settlement conference to discuss the allegations and the actions necessary to correct and resolve the violations, which may include injunctive relief and the establishment of a compliance schedule. Payment of a civil penalty will also be discussed. The civil penalty amount noted in the proposed Agreed Order contains a preliminary penalty figure for settlement discussion purposes only and is based on penalty calculations associated with the alleged violations set forth in the Notice of Violation. A portion of the civil penalty may be offset by performing an approved Supplemental Environmental Project (SEP). Typical SEPs have included pollution prevention, pollution control, and environmental restoration projects. A copy of IDEM's SEP policy may be obtained from this office or at IDEM's website at www.IN.gov/idem.



The individual signing the enclosed Agreed Order should be **the President of the company or other authorized signatory**. The timely entry into an Agreed Order, which saves you and IDEM time and resources, may lead to a reduction in the civil penalty.

IDEM is not required to extend the offer of entry into an Agreed Order for more than sixty days. You may enter into an Agreed Order without admitting that the violations occurred. If an Agreed Order is not entered into, IDEM may proceed to issue a unilateral notice and order requiring compliance with the environmental rules including payment of a civil penalty. Please contact me at (812) 380-2316 or e-mail qgilbert@idem.in.gov, if you have any questions or if you wish to request a settlement conference.

Sincerely,



Quentin Gilbert
Compliance and Enforcement Manager
Compliance and Enforcement
Southwest Regional Office

Enclosures

cc: Rochelle Marceillars, US EPA Region 5
Quentin Gilbert, Compliance and Enforcement Branch
<http://www.IN.gov/idem>



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NOTICE OF VIOLATION

Via Certified Mail

No.: 7004 1160 0004 6517 7920

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To: Marc Walraven, Owner
Eagle Railcar Services
9701 East Interstate 20
Eastland, TX 76448

Corporation Service Company, Registered Agent
135 North Pennsylvania Street, Suite 1610
Indianapolis, IN 46204

Case No. 2016-23675-A

Based on an investigation on October 9 and 20, 2015 and review of subsequent correspondence and reports, the Indiana Department of Environmental Management ("IDEM") has reason to believe violations of environmental rules and an environmental permit occurred. The violations are based on the following:

1. Respondent owns and operates a company with Plant I.D. No. 027-00006 located at 1723 West Walnut Street in Washington, Daviess County, Indiana (the "Site").
2. Pursuant to Permit F027-29701-00006 Condition D.2.2(c), particulate from the painting and stenciling operation shall be controlled by dry particulate filters.

Respondent failed to control particulate from the painting and stenciling operation with dry particulate filters, in violation of Permit F027-29701-00006 Condition D.2.2(c).

3. Pursuant to Permit F027-29701-00006 Condition D.1.6, a Preventive Maintenance Plan is required for the rail tank car cleaning operation, flare (FL-1), and each of the hopper rail car dig out stations.

Respondent failed to prepare a Preventive Maintenance Plan for the rail tank car cleaning operation and each of the hopper rail car dig out stations, in violation of Permit F027-29701-00006 Condition D.1.6.

4. Pursuant to Permit F027-29701-00006 Condition D.2.5, a Preventive Maintenance Plan is required for the abrasive blasting unit, the abrasive storage silo, the painting and stenciling operation, the tank car liner installation operation, and their control devices.

Respondent failed to prepare a Preventive Maintenance Plan for the abrasive blasting unit and painting & stenciling operation and their control devices in violation of Permit F027-29701-00006 Condition D.2.5.

5. Pursuant to Permit F027-29701-00006 Condition D.1.8, the Permittee shall perform VOC testing (including capture efficiency and destruction efficiency) for flare FL-1 within 60 days after achieving the maximum capacity of one or more of the wash stations (WS-1 through WS-10) but not later than one hundred eighty (180) days after initial startup of one or more of the wash stations.

Respondent failed to perform VOC testing for flare FL-1 in violation of Permit F027-29701-00006 Condition D.1.8.

6. Pursuant to the following conditions of Permit F027-29701-00006, the Permittee shall maintain the records listed below.

Respondent failed to maintain records in violation of the following conditions of Permit F027-29701-00006.

Permit Cond./Rule Violated	Required Record
D.1.11(a)(1)	The number of rail tank cars processed in the rail tank car cleaning operation each month
D.1.11(a)(2)	The type and amount of material contained in each rail tank car each month and the type and content of VOC and HAP in each material
D.1.11(a)(3)	Monthly record of the amount of materials vented to the flare
D.1.11(a)(4)	Parameter values used to calculate pollutant emissions as specified in the equations contained in Condition D.1.9
D.1.11(a)(5)	The total VOC, total worst case single HAP, total combined HAPs, emitted each month and each compliance period
D.1.11(b)(1)	Daily records of the type of chemicals and materials received and shipped offsite for re-use or disposal
D.1.11(c)(2)	Monthly records to demonstrate the thermocouple or equivalent device detects the presence of a flame no less than once per minute
D.2.8(a)	The total hours of operation for the abrasive blasting unit each month and each twelve consecutive month period
D.2.8(b)	Monthly record of the VOC content of coating material and solvent used and the amount of coating and solvent less water used
D.2.8(c)	Log of weekly overspray observations, daily and monthly inspections
326 IAC 8-3-8(c)(2)	Records of cold cleaner degreaser solvent purchased

7. Pursuant to the following conditions of Permit F027-29701-00006, the Permittee shall submit the reports listed below no later than thirty (30) days after the end of the quarter being reported.

Respondent failed to submit reports in violation of the following conditions of Permit F027-29701-00006 within thirty (30) days after the end of the quarter being reported.

Permit Condition Violated	Required Report
D.1.12	Quarterly summary of the information to document the compliance status with Conditions D.1.2(a), D.1.2(b), and D.1.2(c)
D.2.9	Quarterly summary of the information to document the compliance status with Condition D.2.1(a)
C.16	Quarterly Deviation and Compliance Monitoring Report
B.9	Annual Compliance Certifications for 2012 through 2014

8. Pursuant to Permit F027-29701-00006 Condition D.2.3(b), all VOC containing coatings, thinners, coating related waste, and cleaning materials shall be stored in closed containers.

Respondent failed to store all VOC containing materials in closed containers, in violation of Permit F027-29701-00006 Condition D.2.3(b).

9. Pursuant to Permit F027-29701-00006 Condition D.2.7(a), daily inspections shall be performed to verify the placement, integrity and particle loading of the filters associated with the painting and stenciling operation.

Respondent failed to perform daily inspections to verify the placement, integrity and particle loading of the filters associated with the painting and stenciling operation, in violation of Permit F027-29701-00006 Condition D.2.7(a).

10. Pursuant to 326 IAC 8-3-2(a)(5), the owner or operator of a cold cleaner degreaser shall provide a permanent, conspicuous label that lists the operating requirements in subdivisions (3), (4), (6), and (7).

Respondent failed to provide a permanent, conspicuous label that lists the operating requirements in subdivisions (3), (4), (6), and (7), in violation of 326 IAC 8-3-2(a)(5).

11. Pursuant to Permit F027-29701-00006 Condition B.16(b)(1), a timely renewal application is one that is submitted at least nine (9) months prior to the date of the expiration.

Respondent failed to submit a timely renewal application as the application was postmarked April 27, 2016, after the date due of April 10, 2016, in violation of Permit F027-29701-00006 Condition B.16(b)(1).

In accordance with IC 13-30-3-3, the Commissioner herein provides notice that violations may exist and offers an opportunity to enter into an Agreed Order providing for the actions required to correct the violations and, as necessary and appropriate, for the payment of a civil penalty. The Commissioner is not required to extend this offer for more than sixty (60) days.

As provided in IC 13-30-3-3, an alleged violator may enter into an Agreed Order without admitting that the violations occurred. IDEM encourages settlement by Agreed Order, thereby resulting in quicker correction of the environmental violations and avoidance of extensive litigation. Timely settlement by Agreed Order may result in a reduced civil penalty. Also, settlement discussions will allow the opportunity to present any mitigating factors that may be relevant to the violations.

IDEM is aware additional violations may exist. A subsequent Notice of Violation, if appropriate, and an Agreed Order that includes all alleged violations will be issued following IDEM's review of information related to the potential violations. If an Agreed Order is not entered into within sixty (60) days of receipt, the Commissioner may issue a Notice and Order under IC 13-30-3-4 containing the actions that must be taken to correct the violations and requiring the payment of an appropriate civil penalty. Pursuant to IC 13-30-4-1, the Commissioner may assess penalties of up to \$25,000 per day for each violation.

Please contact Quentin Gilbert at (812) 380-2316 within fifteen (15) days after receipt of this Notice to discuss resolution of this matter.

For the Commissioner:

Date: 5/12/17



Phil Perry, Chief
Compliance and Enforcement Branch
Office of Air Quality

cc: Rochelle Marceillars, US EPA Region 5
Daviess County Health Department
Quentin Gilbert, Compliance and Enforcement Branch, OAQ
<http://www.in.gov/idem/enforcement/>

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Eric J. Holcomb
Governor

Bruno L. Pigott
Commissioner

STATE OF INDIANA) SS: BEFORE THE INDIANA DEPARTMENT OF
) ENVIRONMENTAL MANAGEMENT
COUNTY OF MARION)
)
COMMISSIONER OF THE)
DEPARTMENT)
OF ENVIRONMENTAL MANAGEMENT)
)
)
Complainant,)
)
v.) Case No. 2016-23675-A
)
EAGLE RAILCAR SERVICES,)
)
Respondent.)

AGREED ORDER

Complainant and Respondent desire to settle and compromise this action without hearing or adjudication of any issue of fact or law, and consent to the entry of the following Findings of Fact and Order. Pursuant to IC 13-30-3-3, entry into the terms of this Agreed Order does not constitute an admission of any violation contained herein. Respondent's entry into this Agreed Order shall not constitute a waiver of any defense, legal or equitable, which Respondent may have in any future administrative or judicial proceeding, except a proceeding to enforce this order.

I. FINDINGS OF FACT

1. Complainant is the Commissioner ("Complainant") of the Indiana Department of Environmental Management ("IDEM"), a department of the State of Indiana created by Indiana Code ("IC") 13-13-1-1.
2. Respondent is Eagle Railcar Services ("Respondent"), which owns and operates the facility with Plant ID No. 027-00006, located at 1723 West Walnut Street in Washington, Daviess County, Indiana ("Site").
3. IDEM has jurisdiction over the parties and the subject matter of this action.
4. Pursuant to IC 13-30-3-3, IDEM issued a Notice of Violation ("NOV") to:



Marc Walraven, Owner
Eagle Railcar Services
9701 East Interstate 20
Eastland, TX 76448

Corporation Service Company, Registered Agent
135 North Pennsylvania Street, Suite 1610
Indianapolis, IN 46204

5. Respondent owns and operates a stationary railroad car cleaning and refurbishing operation.
6. During an investigation October 9 and 20, 2015 conducted by representatives of IDEM and during review of subsequent correspondence and reports, the following violations were found:

- a. Pursuant to FESOP Permit F027-29701-00006 ("permit") issued to Respondent on January 10, 2012, condition D.2.2(c) requires particulate from the painting and stenciling operation shall be controlled by dry particulate filters.

Respondent failed to control particulate from the painting and stenciling operation with dry particulate filters, in violation of FESOP Permit F027-29701-00006 Condition D.2.2(c). Respondent began using filters following the inspection.

- b. Pursuant to FESOP Permit F027-29701-00006 ("permit") issued to Respondent on January 10, 2012, condition D.1.6 requires a Preventive Maintenance Plan be maintained for the rail tank car cleaning operation, flare (FL-1), and each of the hopper rail car dig out stations.

Respondent failed to maintain a Preventive Maintenance Plan for the rail tank car cleaning operation and each of the hopper rail car dig out stations, in violation of Permit F027-29701-00006 Condition D.1.6. Respondent developed preventive maintenance plans following the inspection.

- c. Pursuant to FESOP Permit F027-29701-00006 ("permit") issued to Respondent on January 10, 2012, condition D.2.5 requires a Preventive Maintenance Plan be maintained for the abrasive blasting unit, the abrasive storage silo, the painting and stenciling operation, the tank car liner installation operation, and their control devices.

Respondent failed to maintain a Preventive Maintenance Plan for the abrasive blasting unit and painting & stenciling operation and their control devices. Respondent developed preventive maintenance plans following the inspection.

- d. Pursuant to FESOP Permit F027-29701-00006 ("permit") issued to Respondent on January 10, 2012, condition D.1.8 requires the Permittee to perform VOC testing (including capture efficiency and destruction

efficiency) for flare FL-1 within 60 days after achieving the maximum capacity of one or more of the wash stations (WS-1 through WS-10) but not later than one hundred eighty (180) days after initial startup of one or more of the wash stations.

Respondent failed to perform VOC testing for flare FL-1 in violation of Permit F027-29701-00006 Condition D.1.8.

- e. Pursuant to the following conditions of FESOP Permit F027-29701-00006 ("permit") issued to Respondent on January 10, 2012, the permittee shall maintain the records listed below.

Respondent failed to maintain records in violation of the following conditions of Permit F027-29701-00006. Respondent developed log sheets to maintain the required records following the inspection.

Permit Cond./Rule Violated	Required Record
D.1.11(a)(1)	The number of rail tank cars processed in the rail tank car cleaning operation each month
D.1.11(a)(2)	The type and amount of material contained in each rail tank car each month and the type and content of VOC and HAP in each material
D.1.11(a)(3)	Monthly record of the amount of materials vented to the flare
D.1.11(a)(4)	Parameter values used to calculate pollutant emissions as specified in the equations contained in Condition D.1.9
D.1.11(a)(5)	The total VOC, total worst case single HAP, total combined HAPs, emitted each month and each compliance period
D.1.11(b)(1)	Daily records of the type of chemicals and materials received and shipped offsite for re-use or disposal
D.1.11(c)(2)	Monthly records to demonstrate the thermocouple or equivalent device detects the presence of a flame no less than once per minute
D.2.8(a)	The total hours of operation for the abrasive blasting unit each month and each twelve consecutive month period
D.2.8(b)	Monthly record of the VOC content of coating material and solvent used and the amount of coating and solvent less water used
D.2.8(c)	Log of weekly overspray observations, daily and monthly inspections
326 IAC 8-3-8(c)(2)	Records of cold cleaner degreaser solvent purchased

- f. Pursuant to the following conditions of FESOP Permit F027-29701-00006 ("permit") issued to Respondent on January 10, 2012, the permittee shall submit the reports listed below no later than thirty (30) days after the end of the quarter being reported.

Respondent failed to submit reports in violation of the following conditions of Permit F027-29701-00006 within thirty (30) days after the end of the quarter being reported.

Permit Condition Violated	Required Report
D.1.12	Quarterly summary of the information to document the compliance status with Conditions D.1.2(a), D.1.2(b), and D.1.2(c)
D.2.9	Quarterly summary of the information to document the compliance status with Condition D.2.1(a)
C.16	Quarterly Deviation and Compliance Monitoring Report
B.9	Annual Compliance Certifications for 2012 through 2014

- g. Pursuant to FESOP Permit F027-29701-00006 ("permit") issued to Respondent on January 10, 2012, condition D.2.3(b) requires all VOC containing coatings, thinners, coating related waste, and cleaning materials shall be stored in closed containers.

Respondent failed to store all VOC containing materials in closed containers, in violation of Permit F027-29701-00006 Condition D.2.3(b). Respondent closed the containers the day of inspection.

- h. Pursuant to FESOP Permit F027-29701-00006 ("permit") issued to Respondent on January 10, 2012, condition D.2.7(a) requires daily inspections shall be performed to verify the placement, integrity and particle loading of the filters associated with the painting and stenciling operation.

Respondent failed to perform daily inspections to verify the placement, integrity and particle loading of the filters associated with the painting and stenciling operation, in violation of Permit F027-29701-00006 Condition D.2.7(a).

- i. Pursuant to 326 IAC 8-3-2(a)(5), the owner or operator of a cold cleaner degreaser shall provide a permanent, conspicuous label that lists the operating requirements in subdivisions (3), (4), (6), and (7).

Respondent failed to provide a permanent, conspicuous label that lists the operating requirements in subdivisions (3), (4), (6), and (7), in violation of 326 IAC 8-3-2(a)(5). Respondent posted a label listing the operating requirements following the inspection.

- j. Pursuant to FESOP Permit F027-29701-00006 ("permit") issued to Respondent on January 10, 2012, condition B.16(b)(1), a timely renewal application is one that is submitted at least nine (9) months prior to the date of the expiration.

Respondent failed to submit a timely renewal application in violation of Permit F027-29701-00006 condition B.16(b)(1). Respondent submitted an application April 27, 2016, after the date due of April 10, 2016.

7. In recognition of the settlement reached, Respondent waives any right to administrative and judicial review of this Agreed Order.

II. ORDER

1. This Agreed Order shall be effective ("Effective Date") when it is approved by Complainant or Complainant's delegate, and has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date.
2. Respondent shall comply with all rules and permit conditions listed in the findings here and above at issue.
3. All submittals required by this Agreed Order, unless Respondent is notified otherwise in writing by IDEM, shall be sent to:

Quentin Gilbert, Compliance and Enforcement Manager
Indiana Department of Environmental Management
Southwest Regional Office
P. O. Box 128
Petersburg, IN 47567-0128

4. Respondent is assessed and agrees to pay a civil penalty of Thirteen Thousand Two Hundred Fifty Two Dollars (\$13,252.00). Said penalty amount shall be due and payable to the Environmental Management Special Fund within thirty (30) days of the Effective Date; the 30th day being the "Due Date".
5. Civil penalties are payable by check to the "Environmental Management Special Fund." Checks shall include the Case Number of this action and shall be mailed to:

IDEM Office of Legal Counsel
IGCN, Rm N1307
100 N Senate Ave
Indianapolis, IN 46204

6. This Agreed Order shall apply to and be binding upon Respondent and its successors and assigns. Respondent's signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent. No change in ownership, corporate, or partnership status of Respondent shall in any way alter its status or responsibilities under this Agreed Order.
7. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondent shall pay interest on the unpaid balance at the rate established by IC 24-4.6-1. The interest shall be computed as having accrued from the Due Date until the date that Respondent pays any unpaid balance. Such interest shall be payable to the Environmental

Management Special Fund and shall be payable to IDEM in the manner specified in Paragraph 5, above.

8. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.
9. Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners or successors before ownership rights are transferred. Respondent shall ensure that all contractors, firms and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
10. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of its obligation to comply with the requirements of its applicable permit or any applicable Federal or State law or regulation.
11. Complainant does not, by its approval of this Agreed Order, warrant or aver in any manner that Respondent's compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation. Additionally, IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of Respondent's efforts to comply with this Agreed Order.
12. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to, seek additional civil penalties for the same violations specified in the NOV.
13. Nothing in this Agreed Order shall prevent IDEM or anyone acting on its behalf from communicating with the EPA or any other agency or entity about any matters relating to this enforcement action. IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondents may incur as a result of such communications with the EPA or any other agency or entity.
14. This Agreed Order shall remain in effect until IDEM issues a Resolution of Case letter to Respondent.

REMAINDER OF PAGE LEFT BLANK INTENTIONALLY

TECHNICAL RECOMMENDATION:
Department of Environmental
Management

By: David P. McIver
David P. McIver, Chief
Enforcement Section
Office of Air Quality

Date: 5-2-17

RESPONDENT:
Eagle Railcar Services

By: _____

Printed: _____

Title: _____

Date: _____

COUNSEL FOR RESPONDENT:

By: _____

Date: _____

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF
ENVIRONMENTAL
MANAGEMENT _____ DAY OF _____, 20 ____
THIS

For the Commissioner:

By: _____
Keith Baugues, Assistant Commissioner
Office of Air Quality
Indiana Department of Environmental
Management

